

1 TRUMP ALIOTO TRUMP & PRESCOTT LLP
2 Mario N. Alioto, Esq. (SBN 56433)
3 malioto@tatp.com
4 Lauren C. Russell, Esq. (SBN 241151)
5 lauren russell@tatp.com
2280 Union Street
San Francisco, CA 94123
Telephone: (415) 563-7200
Facsimile: (415) 346-0679

6 Attorneys for Plaintiff Scott Lamson

7 Additional Counsel on Signature Page

8
9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**

11 SCOTT LAMSON, on behalf himself and all
12 others similarly situated,

13 Plaintiff,

14 v.

15 THE HERSHEY COMPANY, MARS, INC.,
16 MASTERFOODS USA, INC., NESTLE S.A.,
NESTLE U.S.A., INC. and CADBURY
SCHWEPPE PLC,

17 Defendants.

Case No. 08-cv-0153 MJJ

**STIPULATION RE EXTENSION OF
TIME FOR DEFENDANTS TO
RESPOND TO COMPLAINT;
[PROPOSED] ORDER EXTENDING
TIME TO RESPOND TO COMPLAINT**

18 Plaintiff Scott Lamson ("Plaintiff"), by and through his counsel of record, hereby submits
19 this Stipulation Re Extension of Time for Defendants to Respond to Complaint.

20 WHEREAS Plaintiff filed a Complaint in the above-captioned case on or about January
21 9, 2008;

22 WHEREAS Plaintiff alleges price fixing of chocolate;

23 WHEREAS forty complaints have been filed to date in federal district courts throughout
24 the United States by plaintiffs purporting to bring class actions on behalf of direct and indirect
25 purchasers alleging antitrust violations by manufacturers, distributors, and sellers of Chocolate
26 (collectively, "the Chocolate Cases");

27
28 **STIPULATION RE EXTENSION OF TIME FOR DEFENDANTS TO RESPOND TO COMPLAINT;
[PROPOSED] ORDER EXTENDING TIME TO RESPOND TO COMPLAINT**

Case No. 06-CV-0153

1 WHEREAS several motions are pending before the Judicial Panel on Multidistrict
2 Litigation to transfer the Chocolate Cases for coordinated and consolidated pretrial proceedings
3 pursuant to 28 U.S.C. Section 1407, and Plaintiff and defendants The Hershey Company, Mars,
4 Incorporated, Masterfoods USA, Inc., and Nestle U.S.A., Inc. (collectively, “the Chocolate
5 Companies”) anticipate that additional responses will be filed;

6 WHEREAS Plaintiff anticipates the possibility of Consolidated Amended Complaints in
7 the Chocolate Cases;

8 WHEREAS Plaintiff and the Chocolate Companies have agreed that an orderly schedule
9 for any response to the pleadings in the Chocolate Cases would be more efficient for the parties
10 and for the Court;

11 WHEREAS no prior extensions have been granted; and

12 THEREFORE, PLAINTIFF AND DEFENDANTS, BY AND THROUGH THEIR
13 RESPECTIVE COUNSEL OF RECORD, HEREBY STIPULATE AS FOLLOWS:

14 1. The deadline for the Chocolate Companies to answer, move, or otherwise respond to
15 Plaintiff’s Complaint shall be extended until the earliest of the following dates: (1) forty-five
16 days after the filing of a Consolidated Amended Complaint in the Chocolate Cases; or (2) forty-
17 five days after Plaintiff provides written notice to the Chocolate Companies that Plaintiff does
18 not intend to file a Consolidated Amended Complaint, provided however, that in the event that
19 the Chocolate Companies should agree or be ordered to respond prior to that date in any
20 Chocolate case, the Chocolate Companies will respond to the Complaint in the above-captioned
21 case on that earlier date.

22 2. The defense counsel identified below shall accept service of the complaint filed in this
23 case, including any amended or consolidated complaint, on behalf of the domestic entities that
24 they represent. Defendants shall not contest the sufficiency of process or service of process;
25 provided, however, that by entering into this Stipulation no Defendant waives any other defense,
26 including but not limited to the defense of lack of personal or subject matter jurisdiction,
27 improper venue, or service of an improper entity.

1 3. The Plaintiff will not seek discovery until the Judicial Panel on Multidistrict Litigation
2 rules on the pending motions to transfer and the transferee district enters a case management
3 order, provided, however, that in the event that the Chocolate Companies should agree or be
4 ordered to provide discovery in any Chocolate case before that date, the Chocolate Companies
5 will simultaneously provide the same discovery to the Plaintiff in the above-captioned action.

6 4. This extension is available, without further stipulation with counsel for Plaintiff, to all
7 named defendants.

8
9 IT IS SO STIPULATED.

10
11 Based on the above Stipulation, Plaintiff requests that the Court enter the proposed order
12 attached hereto.

13
14 Respectfully Submitted,

15 Dated: February 6, 2008

TRUMP ALIOTO TRUMP & PRESCOTT LLP

16 By: /s/ Lauren C. Russell

17 TRUMP ALIOTO TRUMP & PRESCOTT LLP
18 Mario N. Alioto, Esq. (56433)
19 Lauren C. Russell, Esq. (241151)
20 2280 Union Street
21 San Francisco, CA 94123
22 Telephone: (415) 563-7200
23 Facsimile: (415) 346-0679
24 malioto@tatp.com
25 lauren russell@tatp.com

Counsel for Plaintiff Scott Lamson

1 Dated: February 6, 2008

2 By: /s/ David Marx, Jr.

3 David Marx, Jr.
4 McDermott Will & Emery LLP
5 227 West Monroe Street
6 Chicago, Illinois
7 Telephone: (312) 984-7668
8 Fax: (312) 984-7700

9 *Attorney for Mars, Incorporated and*
10 *Masterfoods USA, Inc.*

11 By: /s/ Thomas D. Yannucci

12 Thomas D. Yannucci, P.C..
13 Kirkland & Ellis LLC
14 655 Fifteenth Street
15 Washington, DC 20005-5793
16 Telephone: (202) 879-5000
17 Fax: (202) 879-5200

18 *Attorney for The Hershey Company*

19 By: /s/ Roxann E. Henry

20 Roxann E. Henry
21 Howrey LLP
22 1299 Pennsylvania Avenue, N.W.
23 Washington, DC 20004
24 Telephone: (202) 383-6503
25 Fax: (202) 383-6610

26 *Attorney for Nestle U.S.A., Inc.*

1 TRUMP ALIOTO TRUMP & PRESCOTT LLP
2 Mario N. Alioto, Esq. (SBN 56433)
malimoto@tatp.com
3 Lauren C. Russell, Esq. (SBN 241151)
lauren russell@tatp.com
4 2280 Union Street
San Francisco, CA 94123
5 Telephone: (415) 563-7200
Facsimile: (415) 346-0679

6 Attorneys for Plaintiff Scott Lamson

7 Additional Counsel on Signature Page

8
9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**

11 SCOTT LAMSON, on behalf of himself and all
12 others similarly situated,

13 Plaintiff,

14 v.

15 THE HERSHEY COMPANY, MARS, INC.,
MASTERFOODS USA, INC., NESTLE S.A.,
16 NESTLE U.S.A., INC., and CADBURY
SCHWEPPE PLC,

17 Defendants.

Case No. 08-cv-0153 MJJ

PROPOSED ORDER

18
19 PURSUANT TO THE STIPULATION ATTACHED HERETO, IT IS SO ORDERED.
20
21

22 Dated: _____

Honorable Martin J. Jenkins

23
24
25
26
27 STIPULATION RE EXTENSION OF TIME FOR DEFENDANTS TO RESPOND TO COMPLAINT;
28 [PROPOSED] ORDER EXTENDING TIME TO RESPOND TO COMPLAINT

Case No. 06-CV-0153 MJJ